

ARIZONA STATE VETERINARY MEDICAL EXAMINING BOARD
1740 W. ADAMS ST., SUITE 4600, PHOENIX, ARIZONA 85007
PHONE (602) 364-1PET (1738) FAX (602) 364-1039
VETBOARD.AZ.GOV

COMPLAINT INVESTIGATION FORM

If there is an issue with more than one veterinarian please file a separate Complaint Investigation Form for each veterinarian

PLEASE PRINT OR TYPE

FOR OFFICE USE ONLY

Date Received: Sept. 30, 2019

Case Number: 20-32

A. THIS COMPLAINT IS FILED AGAINST THE FOLLOWING:

Name of Veterinarian/CVT: NATHAN J. SCHOLTEN D.V.M

Premise Name: Hopi Animal Hospital

Premise Address: 5533 E. Bell Road suite 101

City: Scottsdale State: AZ Zip Code: 85254

Telephone: 602-494-4674

B. INFORMATION REGARDING THE INDIVIDUAL FILING COMPLAINT*:

Name: Diane Hinkle

Address: [REDACTED]

City: [REDACTED] State: [REDACTED] Zip Code: [REDACTED]

Home Telephone: NA Cell Telephone: [REDACTED]

email - [REDACTED]

*STATE LAW REQUIRES WE HAVE TO DISCLOSE YOUR NAME UNLESS WE CAN SHOW THAT DISCLOSURE WILL RESULT IN SUBSTANTIAL HARM TO YOU, SOMEONE ELSE OR THE PUBLIC PER A.R.S. § 41-1010. IF YOU HAVE REASON TO BELIEVE THAT SUBSTANTIAL HARM WILL RESULT IN DISCLOSURE OF YOUR NAME PLEASE PROVIDE COPIES OF RESTRAINING ORDERS OR OTHER DOCUMENTATION.

RECEIVED

SEP 30 2019

C. PATIENT INFORMATION (1):

Name: Kitty (Kat)
Breed/Species: cat
Age: 1 1/2 yrs. Sex: male Color: black & white

PATIENT INFORMATION (2): NA

Name: _____
Breed/Species: _____
Age: _____ Sex: _____ Color: _____

D. VETERINARIANS WHO HAVE PROVIDED CARE TO THIS PET FOR THIS ISSUE:

Please provide the name, address and phone number for each veterinarian.

NATHAN SCHOLTEN D.V.M.

- AUG 19, 2019 - EXAM / health
Fely/ combo test
- AUG 20, 2019 - male NEUTERED

(NOTE) see address below

E. WITNESS INFORMATION:

Please provide the name, address and phone number of each witness that has direct knowledge regarding this case.

STAFF@ Hopi Animal Hospital

[REDACTED]
[REDACTED]
[REDACTED]

Attestation of Person Requesting Investigation

By signing this form, I declare that the information contained herein is true and accurate to the best of my knowledge. Further, I authorize the release of any and all medical records or information necessary to complete the investigation of this case.

Signature: [Signature]

Date: 9-27-19

F. ALLEGATIONS and/or CONCERNS:

Please provide all information that you feel is relevant to the complaint. This portion must be either typewritten or clearly printed in ink.

SEE ATTACH FORM - - 2 pages

Complaint filed against: Nathan J. Scholten D.V.M.

Individual filing complaint: Diane Hinkle

Re: KITTY HINKLE

Allegations and/or Concerns:

- 1). Ability to determine sex of cat
- 2). Ability to interrupt sonogram
- 3). Laparotomy surgery – unnecessary
- 4). Post-operative care

The initial visit for Kitty Hinkle was August 19, 2019 at Hopi Animal Hospital for a health examination and to determine sex of the cat. I acknowledge never owned a cat and unsure of sex of my cat and needed verification of sex. My belief was the cat was female and pregnant due to her/his behaviors and gaining weight. Sonogram was performed and interrupted by Dr. Nathan J. Scholten. He confirmed female cat and in heat. Stating the ovaries was swollen. Later he withdrew statement: clarifying he thought he saw the uterine horns. But after surgery: stated it must have been the ureter he saw.

August 20, 2019. Kitty scheduled for spaying. After surgery: Telephone call received from Dr. Nathan J. Scholten. Diagnosis: Kitty a male cat. That day Kitty had undergone two surgeries: Exploratory Laparotomy and neutering.

Laparotomy: Unnecessary & risk of infection. Dr. Nathan J. Scholten stated he did not realize Kitty was male cat until he suppressed the bladder during the Laparotomy. Urine very strong in smell. Thus, I assume he checked for male anatomy and found it. Dr. Nathan J. Scholten admitted he made a mistake but never apologized or seemed to have remorse for it.

Post operative care – poor. I, Diane Hinkle, made telephone calls and email photos of abdominal area of suture line on three separate days to Hopi Animal Hospital re: Kitty's abdominal area swollen. First time: inform to call back if didn't get better. Second time: inform to call back on Saturday to schedule an appointment. Third time: Dr. Nathan J. Scholten not here and other doctor booked full, no appointments available. Inquired if on-call doctor available. Answer none. Kitty had to wait until Monday morning, August 26, 2019 to see the doctor. I feel if there is concern re: recovery from surgery. There should be some availability to have pet seen by the veterinarian.

Page 2

Complaint filed against: Nathan J. Scholten

Individual filing complaint: Diane Hinkle

Re: Kitty Hinkle

I, Diane Hinkle, explored my options of how to express my concern of care of my cat, Kitty. I reviewed consumer rights – American Associations of Veterinary State Boards. I choose to file a formal complaint. I called Dr. Nathan J. Scholten to inform him of my decision. He seemed defensive and repeatedly stated, “I told you, I made a mistake”. There seemed to be no remorse on his part. My impression of Dr. Nathan J. Scholten verbalizing the obvious is had he consider not informing me of his mistake? I would expect nothing less but for my veterinarian to be forthright about mistakes made while my cat, Kitty, was under his care.

received
10/16/19

October 16, 2019

Arizona State Veterinary Medical Examining Board
1740 West Adams Street, Suite 4600
Phoenix, Arizona 85007

In Re: 20-32 (Nathan Scholten, DVM)

To Whom It May Concern:

On August 19, 2019, Ms. Hinkle presented her stray cat, Kitty Kat, an outdoor possibly intact female, for a pregnancy evaluation.

During my examination, the cat was moderately fractious. An ultrasound was attempted to determine that there were no feti present. The cat was not shaved and was difficult to restrain during the ultrasound. There was what appeared to be a swollen uterine horn running along the right dorsal side. We were unable to complete the ultrasound US as the cat became too fractious. I told the owner that there were no feti present and that there appeared to be something that I suspected was a swollen right uterine horn. We then performed a FELV/FIV test, which was negative, and scheduled the cat for surgery.

The cat presented for surgery on August 20, 2019 and pre-op blood work was done. The cat was then sedated with IV Propofol, intubated, and shaved for surgery. After the cat was put on O2 & Isoflurane, a vertical incision was made. I found no reproductive organs and suspected that the cat may be male instead of female. I then performed a standard male castration. Recovery was routine. The owner was then called and advised of situation. During the conversation the owner never appeared mad or upset and she even joked about the situation.

The owner called on August 23rd and said that the surgical site looked swollen after the cat had been jumping up on the outside block wall. The owner sent pictures, which appeared to look like the cat had been licking at the area. As a result, I advised her to get an e-collar.

The owner returned on August 26th for a recheck. The area around the surgical site was mildly swollen. I advised the owner it was possible a reaction to the sutures from licking at the area. At this time the owner seemed fine and jovial.

My next contact with the owner was on August 28th when she called to tell me that she thought I was dishonest and that she was taking me to the board. I advised her that I was sorry about that and that I had been completely honest the entire time and never tried to hide anything from her.

Thank you.

Nathan Scholten, DVM



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INVESTIGATIVE COMMITTEE REPORT

TO: Arizona State Veterinary Medical Examining Board

FROM: PM Investigative Committee: Adam Almaraz - Chair
Amrit Rai, DVM
Cameron Dow, DVM - **Absent**
William Hamilton
Brian Sidaway, DVM

STAFF PRESENT: Tracy A. Riendeau, CVT – Investigations
Dawn Halbrook – Compliance Specialist
Mary Williams – Assistant Attorney General

RE: Case: 20-32
Complainant(s): Diane Hinkle
Respondent(s): Nathan Scholten, DVM (License: 3021)

SUMMARY:

Complaint Received at Board Office: 9/30/19
Committee Discussion: 12/3/19
Board IIR: 1/15/20

APPLICABLE STATUTES AND RULES:

Laws as Amended August 2018
(Lime Green); Rules as Revised
September 2013 (Yellow)

On August 19, 2019, "Kitty," a 1.5-year-old male domestic long hair cat was presented to Respondent for an exam. Complainant found the cat as a stray and believed the cat could be a pregnant female due to weight gain. Respondent performed an ultrasound on the cat and saw what appeared to be a swollen uterine horn. The ultrasound could not be completed due to the cat's temperament and spay surgery was scheduled for the following day.

On August 20, 2019, Respondent attempted to spay the cat but no reproductive organs were identified. The cat was actually a male and was castrated. The cat recovered and was discharged later that day.

On August 23, 2019, Complainant submitted pictures of the cat's incision to Respondent. It was recommended the cat be kept indoors and wear the Elizabethan collar until incision was healed.

Complainant was noticed and appeared.

Respondent was noticed and appeared with Counsel, W. Reed Campbell.

The Committee reviewed medical records, testimony, and other documentation as described below:

- Complainant(s) narrative: *Diane Hinkle*
- Respondent(s) narrative/medical record: *Nathan Scholten, DVM*

PROPOSED 'FINDINGS of FACT':

1. On August 19, 2019, the cat was presented to Respondent for exam. Complainant stated that she found the cat as a stray – she had never owned a cat and was unsure of the sex of the cat and needed verification. She believed the cat was a pregnant female due to the cat's behavior and weight gain. Upon exam, the cat had a weight = 11.14 pounds, a temperature = 101.4 degrees, a heart rate = 165bpm and a respiration rate = 44rpm; tartar build up on teeth. Respondent performed an ultrasound on the cat and determined that no feti were present and saw what appeared to be a swollen uterine horn running along the right dorsal side. The ultrasound could not be completed due to the cat becoming fractious. He reported his findings to Complainant and recommended scheduling surgery for the cat at her earliest convenience. An FeLV/FIV test was performed and negative. The cat was discharged to Complainant.

2. On August 20, 2019, the cat was presented to Respondent for a spay procedure. Upon exam, the cat had a weight = 11.7 pounds, a temperature = 102 degrees, a heart rate = 154bpm and a respiration rate = 31rpm; mucous membranes = pink. An IV catheter was placed and Lactated Ringer's Solution was started at 15mL/hr. The cat was pre-medicated with buprenorphine SR SQ; induced with propofol IV; and maintained on isoflurane and oxygen. Respondent made a ventral midline incision and entered the abdomen, no reproductive organs were found. The cat's bladder was expressed and smelled like tomcat urine. The cat's anatomy was checked and determined to be male. Respondent closed the cat's abdomen and performed a routine tomcat neuter. The cat recovered and Respondent contacted Complainant to report his findings and what transpired. The cat was discharged later that day.

3. On August 23, 2019, Complainant emailed Respondent pictures of the cat's incision due to concerns of swelling around the incision. Respondent thought the cat could be licking at the incision and recommended an Elizabethan collar. Complainant responded that the cat had been wearing the Elizabethan collar and was not licking the incision, but did jump up on a block wall. It was recommended keeping the cat indoors with the Elizabethan collar on at all times, until the incision was healed.

4. August 24, 2019, Complainant submitted additional photos of the cat's incision with concerns it was red, swollen and tender. She was unable to get the cat in to be seen due to no appointments available that day (Saturday).

5. On August 26, 2019, the cat was presented to Respondent for a recheck. The cat was examined and it was noted that there was a small amount of subcutaneous swelling around the incision site on abdomen, however there was no redness or oozing. Complainant reported the cat was eating and drinking well and using litter box; keeping indoors.

COMMITTEE DISCUSSION:

The Committee discussed the concern of the misidentification of the cat as a female. This is not a mistake that is unheard of and happens to good, experienced veterinarians. However, in this case the Committee did not feel a thorough examination of the cat occurred. Apparently the cat was examined to look for vulvar discharge therefore the testicles should have been easily identified.

Cats can be difficult to assess and mistakes can happen and Respondent did not purposely misidentify the cat as a female. It did not appear that an adequate attempt was made to sex the cat. If the cat was feral and not able to be handled, it could be a different story. However, an ultrasound probe was placed on the cat's belly and a rectal temperature was taken. The Committee felt there was a degree of nonchalance with the pre-op examination of the cat and the post-op communication with the pet owner.

The Committee commended Respondent for admitting his mistake but felt veterinarians have a responsibility to perform a thorough exam and make sure they take responsibility for the animal they are caring for. Although cats can be tough to sex, a well-experienced veterinarian can do that properly when they take the time, especially when it was identified easily once the exploratory laparotomy was negative. Additionally, if a pet owner has never owned a cat before and believes the cat is pregnant, but not sure, that would be a red flag to double check the gender of the cat. Respondent could have administered the cat a sedative to perform a thorough exam if he felt the cat was too fractious to do one.

The Committee also expressed concerns with the post-surgical communications and did not feel Complainant's concerns were addressed appropriately. There were some communications via email that were prompt, however, with a potential post-op complication the Committee did not feel Complainant was given enough instruction on what to do. There was no qualification on the appearance of the cat's incision – if the incision was normal or if the cat should be presented for a recheck due to concerns.

COMMITTEE'S PROPOSED CONCLUSIONS of LAW:

The Committee concluded that possible violations of the *Veterinary Practice Act* occurred.

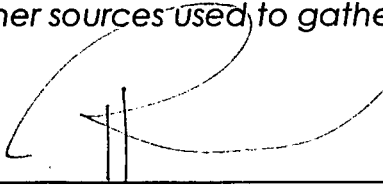
COMMITTEE'S RECOMMENDED DISPOSITION:

Motion: It was moved and seconded the Board find:

ARS § 32-2232 (12) as it relates AAC R3-11-501 (1) failure to provide professionally acceptable procedures for not thoroughly examining the cat which led to the misidentification of the gender of the animal; and failure to adequately communicate with Complainant post-operatively regarding specific incisional care on August 23, and 24, 2019.

Vote: The motion was approved with a vote of 4 to 0.

The information contained in this report was obtained from the case file, which includes the complaint, the respondent's response, any consulting veterinarian or witness input, and any other sources used to gather information for the investigation.

A handwritten signature in black ink, appearing to read 'Tracy A. Riendeau', written over a horizontal line.

Tracy A. Riendeau, CVT
Investigative Division

DOUGLAS A. DUCEY
GOVERNOR



VICTORIA WHITMORE
EXECUTIVE DIRECTOR

ARIZONA STATE VETERINARY MEDICAL EXAMINING BOARD

1740 W. ADAMS STREET, SUITE 4600, PHOENIX, ARIZONA 85007
PHONE (602) 364-1-PET FAX (602) 364-1039

CERTIFIED MAIL
70150640000351022389

January 27, 2020

Nathan Scholten, DVM
ADDRESS ON FILE

LETTER OF CONCERN – 20-32 - In Re: Nathan Scholten, DVM

Dear Dr. Scholten:

At its meeting on January 15, 2020, the Arizona State Veterinary Medical Examining Board considered information presented in the complaint case brought by Diane Hinkle regarding the care and treatment of her cat.

In each case, the Board considers the situation and the professional's response, as well as all relevant information. In this matter, after review and discussion, the Board voted to issue you a Letter of Concern pursuant to A.R.S. § 32-2234(D) regarding the need to thoroughly examine a patient to ensure gender, and if unable to examine the pet, you should document that the patient is fractious. If such an appointment involves an anesthetic procedure, you can examine the animal after sedation/anesthesia is administered.

A Letter of Concern is defined in A.R.S. § 32-2201(12) as "...an advisory letter to notify a veterinarian that, while there is insufficient evidence to support disciplinary action about certain aspects of the case, the Board believes the veterinarian should modify or eliminate certain practices and that continuation of the activities that led to the information being submitted to the Board may result in action against the veterinarian's license."

We hope you will take this advisory letter in the spirit that it is intended to avoid any other potential violations in the future.

Respectfully,
FOR THE BOARD

A handwritten signature in black ink, appearing to read "Victoria Whitmore".

Victoria Whitmore
Executive Director

cc: Diane Hinkle
David Stoll, Esq.